



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

March 1, 2016

Mr. Lorenzo Fernandez
Broward County
Environmental Protection and Growth Management Department
Pollution Prevention Division
One North University Drive, Suite A203
Plantation, Florida 33324

RE: Broward County Final Specific Operating Agreement (SOA)

Dear Mr. Fernandez:

Enclosed you will find the final SOA between the Department of Environmental Protection (DEP) and Broward County containing the original signatures by both parties.

I appreciate your willingness to work with me and my staff to get this final SOA expedited. We look forward to continuing our working relationship with the Broward County Pollution Prevention Division and know that this SOA will aid in that effort.

If you have any questions on the SOA, please contact Terri Long at (850) 717-9023.

Sincerely,

A handwritten signature in black ink, appearing to read "P. McLane", is written over the word "Sincerely,".

Preston McLane, Program Administrator
Office of Business Planning
Division of Air Resource Management

PM/tl

AIR POLLUTION CONTROL
SPECIFIC OPERATING AGREEMENT

BETWEEN THE
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)

AND

BROWARD COUNTY

PART I
INTRODUCTION

- 1) Purpose. This Specific Operating Agreement ("SOA") is entered into between the Florida Department of Environmental Protection ("DEP") and Broward County for the Environmental Protection and Growth Management Department, Pollution Prevention Division ("Local Agency") to act on DEP's behalf as an approved local air pollution control program. Both parties will work together to protect the air quality of the county according to the provisions of Section 403.182, Florida Statutes ("F.S.").

By signing this Agreement, Broward County states that, as an approved local agency, Local Agency is capable of providing the administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program. *See* Section 403.182(1)(d), F.S. Further, Local Agency will coordinate with and assist DEP's Division of Air Resource Management ("DARM") in the preparation and submittal to the Environmental Protection Agency ("EPA") all State Implementation Plan ("SIP") revisions and 111(d) plans that may affect Local Agency. DARM will be responsible for determining the need and relative priority for any such SIP revisions or 111(d) plans.

As an approved local air pollution control program pursuant to Section 403.182, F.S., and this SOA, Broward County is eligible to receive a portion of state tag fee monies pursuant to Section 320.03(6), F.S. In addition, as an approved local air pollution control program, Broward County is eligible to receive federal grant monies from EPA through 42 USC Section 7403 (the "103 Grant") and 42 USC Section 7405 (the "105 Grant").

- 2) Prior Operating Agreements. On July 22, 1981, DEP and the Broward County Environmental Quality Control Board ("EQCB") entered into a General Operating Agreement ("GOA"), which was amended on February 7, 1989. The GOA was subsequently amended on January 9, 1991 to substitute Broward County to replace EQCB as a party to the GOA. A copy of the GOA is on file with Environmental Protection and Growth Management Department ("EPGMD") and DARM.

Executed pursuant to Section 403.182, F.S, the GOA requires that the Secretary of DEP must further authorize the delegation of specific authorities under a specific operating agreement.

The specific operating agreement must specify the DEP programs or duties to be conducted by Local Agency, and will include such specific terms as are necessary to clearly delineate each party's rights and obligations.

This SOA constitutes the sole agreement defining the rights and responsibilities of Local Agency to act on DEP's behalf as an approved local air pollution control program under Sections 403.182 and 403.087, F.S., and the GOA. This SOA recognizes Local Agency as an "approved local air pollution control program" for purposes of Sections 320.03 and 376.60, F.S. In the event that DEP disapproves the local air pollution control program for cause, as provided in Section 403.182(4), F.S., DEP and Local Agency will address fee remittances consistent with the provisions of Sections 320.03 and 376.60, F.S.

- 3) County Authority. The powers and duties of the Broward County Board of County Commissioners are incorporated herein by reference. Pursuant to Section 403.182(9), F.S., nothing in this SOA will diminish Local Agency's independent authority as established by law, nor hinder Local Agency from independently enforcing its own rules, regulations, or orders.
- 4) General Nomenclature. Throughout this document, "county" will mean Broward County and "Local Agency" will mean EPGMD.
- 5) DEP's Role. DEP administers the following EPA-approved or EPA-delegated programs: the State Implementation Plan ("SIP"); the Title V permit program; and programs related to Sections 7411 and 7412 of Title 42, United States Code ("U.S.C."). Pursuant to EPA delegations or approvals, DEP cannot delegate or sub-delegate such authorities to any approved local air pollution control program. DEP may, however, collectively through this SOA, and through any additional contracts (as applicable), authorize Local Agency to act on its behalf for purposes of federally delegated or approved programs. Pursuant to Section 403.182, F.S., DEP may assume and retain jurisdiction over a particular area, category, or program of air pollution control. Furthermore, this SOA and any additional contracts constitute the principal agreement between Local Agency and DEP with regard to air pollution control responsibilities. Compensation for services under additional contracts is contingent upon annual legislative appropriations.
- 6) Records. Program records associated with this SOA or contracts between DEP and Local Agency will be made available to DEP upon request and will be retained by Local Agency in accordance with, and for the longest duration specified in: Chapter 119, F.S.; DEP and the Department of State's records retention schedules; any DEP and Local Agency contract specifically addressing the approved local air pollution control program; and the Department of State's regulations regarding electronic records, if applicable. If not otherwise specified, air program records will be maintained for a minimum of five (5) years. Local Agency and the DEP district office may agree that the DEP district office will retain Local Agency's air program records in accordance with the above requirements. Local Agency shall add and maintain permitting, compliance, and enforcement records in DEP's electronic file storage system for compiling such records (e.g., Air Documents Handling System, OCULUS, etc.).

PART II
ADMINISTRATION OF THIS SOA

- 1) Adequate Staff and Financial Resources. DEP has determined that Local Agency has the adequate and appropriate administration, staff, and financial resources to effectively and efficiently carry out an "approved local air pollution control program" in Broward County.
- 2) Commencement. This SOA will become effective on the date this Agreement is signed by both DEP and Local Agency. Notwithstanding the provisions of the GOA, this SOA is entered into by the DARM Director and Broward County through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, both of whom have the authority to execute this SOA and satisfy its terms and conditions.
- 3) Expiration. This SOA will expire at midnight on August 31, 2018. It is the expectation of the parties that the renewal of this SOA will be negotiated well in advance of the expiration deadline. However, if the parties are in good faith negotiations to renew the SOA at the time of the expiration date, the SOA will be automatically extended during the period of negotiation and will remain in effect until negotiations have ended and a new specific operating agreement has been signed, or the parties do not reach agreement on a new specific operating agreement, in which case the termination procedures in Paragraph Four of this Part will be followed.
- 4) Termination Procedures.
 - a) Termination of this SOA. Local Agency, acting through its Director of EPGMD, or DEP may terminate this SOA without cause by providing written notice to the other party at least ninety (90) calendar days prior to the effective date of such termination.
 - b) Distribution of Funds. Within ninety (90) calendar days of termination, Local Agency will refund to DEP any financial support for air pollution control provided by or through DEP that has not been obligated or expended by Local Agency for that purpose. Conversely, DEP will pay Local Agency a pro rata share of any such financial support due during that budgetary period which has been obligated or funded by Local Agency for air pollution control before the effective date of termination.
- 5) Modification. This SOA may be modified in writing at any time by mutual written consent of DEP and Broward County, acting through its Director of EPGMD. The modification will become effective on the date executed by both parties.
- 6) Agreement Conflicts. If any part of this SOA conflicts with any part of the GOA, the provision within the GOA will control.
- 7) Severability. If any part of this SOA is found invalid or unenforceable by any court or through any administrative proceeding, the remaining parts of this SOA will not be affected if DEP and Local Agency, acting through its Director of EPGMD, agree in writing that the rights and duties of both parties contained in this SOA are not materially prejudiced, and if the intentions of the parties can continue to be effective.

8) Interpretation of Laws, Ordinances, Rules, and Regulations.

- a) Interpretation of Rules. The governmental agency responsible for promulgating a law, ordinance, rule, or regulation will be the primary interpretative authority for that law, ordinance, rule, or regulation. In the event that there is litigation concerning interpretation of a DEP or Local Agency rule, the governmental agency responsible for promulgation of the questioned rule will provide testimony concerning the interpretation. All requests for interpretation will be answered as expeditiously as possible. The term "rule" as applied to Broward County refers to Broward County's duly adopted ordinances, regulations, rules, or other local law.
- b) Federally-Delegated or Approved Programs. Local Agency recognizes that EPA has approved or delegated to DEP all of the federal programs listed in Part I, Paragraph Five. Local Agency further recognizes that DEP is ultimately responsible for any actions or activities related to these federally-delegated or approved programs. DEP has overriding authority regarding any conflicts arising from Local Agency acting on behalf of DEP in the administration of these federally delegated or approved programs.
- c) Information Dissemination. DEP has the responsibility to oversee the dissemination of information. To ensure consistent state-wide implementation, responsibilities are assigned as follows:
 - i) DARM is responsible for disseminating official policy and guidance regarding the implementation of these federally-delegated or approved programs to the DEP district offices and approved local air pollution control programs.
 - ii) Local Agency may distribute pre-existing state or federal documents (e.g., EPA guidance documents or applicability determinations) regarding federally delegated or approved programs to the public or regulated entities operating in its jurisdiction. Local Agency will provide a copy of such information to DARM, if requested.
 - iii) To the extent Local Agency has adopted rules more stringent than a federally delegated or approved program as set forth in this Part, Local Agency may distribute information to the public, or regulated entities operating in its jurisdiction, relating to the applicability, interpretation, or implementation of Local Agency's own rule. When distributing this information, Local Agency will provide a copy to DARM in advance of dissemination.
 - iv) Local Agency may create informational material related to the applicability, interpretation, or implementation of federally delegated or approved programs for the purposes of assisting its regulated community, other DEP district, or approved local air pollution control offices. When distributing this information, Local Agency will provide a copy to DARM in advance of dissemination.

- d) EPA Regulations. Local Agency will follow EPA's interpretation of its regulations regarding National Ambient Air Quality Standards ("NAAQS"), New Source Performance Standards ("NSPS"), and National Emission Standards for Hazardous Air Pollutants ("NESHAP"), including any requests related to the regulation of asbestos. In the event Local Agency and DARM disagree about the applicability or requirements of an EPA regulation, Local Agency may request that DARM seek clarification from EPA. DARM will be responsible for coordinating contact with EPA regarding such requests for clarification. DARM will apprise Local Agency of any clarification provided by EPA within fifteen (15) calendar days.
 - e) SIP Revisions. SIP revisions developed by DEP are considered state-originated rules, except when EPA language is used verbatim.
- 9) Approval of Local Agency Rules. DEP has determined that Local Agency's existing rules as follows that pertain to air pollution control are compatible with or stricter or more extensive than those imposed by Chapter 403, F.S. and rules issued thereunder: Broward County Code of Ordinances, Chapter 27, Article I, Natural Resource Protection; Article IV, Air Quality (excluding Section 27-178 Pollution Prevention Planning and any reference in Article IV to licensing and parking facilities); and Article IX, Open Burning. This determination is not applicable to rules not listed above; to the administration or enforcement of any authority other than DEP's authority under Chapter 403, F.S., and EPA's authority under the Clean Air Act; or to rules pertaining to noise pollution.
- a) Future Local Agency Rules. If Local Agency amends any existing ordinances or rules pertaining to air pollution control, or adopts any new rules, DEP will not enforce such amended or new rules unless and until DEP has determined that such rules are compatible with, or stricter or more extensive than the requirements imposed by Chapter 403, F.S., and rules adopted thereunder. If Local Agency attempts to implement or enforce such rules prior to such a determination by DEP, Local Agency cannot assert that it is acting on behalf of DEP. Nothing in this SOA will limit Local Agency from adopting more stringent local rules. After any such rule adoption, the rule must be submitted to DEP as set forth in this Part.
 - b) Remaining Current with DEP Referenced Rules. In the event that DEP renumbers, amends, adds, or deletes Florida Administrative Code ("F.A.C.") regulations referenced by Local Agency, Local Agency understands that failure to incorporate the changes in the local rules or ordinances within twelve (12) months from the effective date of a DEP rule amendment may result in DEP determining that such local rules or ordinances are incompatible with state requirements.
- 10) Adequate Administrative and Judicial Processes. DEP has determined that Local Agency provides for enforcement of its requirements by appropriate administrative and judicial processes. Local Agency may utilize remedies available to DEP as an alternative to its own procedures.

PART III
AIR PROGRAM MANAGEMENT

- 1) Budget. DARM and Local Agency will, upon request, exchange summaries of their respective approved budgets, and outline funding and staffing for the respective air programs.
- 2) Adequate Staff and Financial Resources. Local Agency will maintain an adequate permitting, ambient monitoring, mobile source, emissions monitoring, and compliance and enforcement staff to satisfy the requirements of this SOA. Local Agency's organizational chart will be periodically updated or supplemented by Local Agency when there are changes of key personnel or organizational structure, and Local Agency will provide a copy of any such organizational chart to DARM as expeditiously as possible.
- 3) Plans. DARM and Local Agency will coordinate and annually exchange, or otherwise make available, upon request of the other party, their respective EPA 105 Air Planning Agreements.
- 4) SIP and 111(d) Plan Revisions. Local Agency will coordinate with and assist DARM in the preparation and submittal to EPA of all SIP and 111(d) plan revisions that may affect Local Agency. DARM will be responsible for determining the need and relative priority for any such SIP revisions.
- 5) Proposed Federal Air Rules. Local Agency will copy DARM on all of Local Agency's comments to proposed federal air rules that are published in the Federal Register.
- 6) Evaluations and Audits. DEP will periodically conduct program performance evaluations, financial audits, and Title V audits of Local Agency's implementation of air programs and activities. Ambient air monitoring program activity evaluations are specifically addressed under Part IV of this SOA.
 - a) Performance Evaluations. DARM may conduct performance evaluations to determine if permit application reviews, permit issuances, emissions inventories, mobile-source activities, compliance activities, and enforcement actions are being effectively conducted in accordance with state requirements and DEP policies.
 - b) Financial Audits. The DEP's Office of Inspector General ("OIG") may conduct financial audits to determine if state funds received by Local Agency for its local air pollution control program have been properly accounted for and spent appropriately. Upon request of DEP's OIG, Local Agency is responsible for providing financial records relating to expenditures from tag fees received under Section 320.03(6), F.S., asbestos fees received under Section 376.60, F.S., and reimbursements from any contracts entered into between DEP and Local Agency. Local Agency shall have a reasonable amount of time to provide the requested documents.
 - c) Title V Program Audit. Pursuant to Section 403.0872(11)(c), F.S., DEP is required to audit its Title V Program once every two years. The purpose of the audit is to determine whether the annual operation license fees collected by DEP are used solely to support any

reasonable direct and indirect costs listed in Section 403.0872(11)(b), F.S. Local Agency is subject to this audit process.

- d) Coordination of Evaluations and Audits. To the extent practicable, DEP and Local Agency will coordinate as necessary during evaluations and audits. Where possible, DEP will provide Local Agency with the opportunity to prepare its own response and to comment on DEP's draft findings. In instances when DEP is subject to an evaluation or audit by a federal agency, and DEP requests Local Agency's participation, Local Agency will provide its responses through DEP. In the event Local Agency is contacted directly by a federal agency regarding any program listed in Part I, Paragraph Five, Local Agency will coordinate its response with DEP. Local Agency will provide DEP with a copy of any such response.
- 7) Electronic Communications. Any reference in this SOA to "mail" includes electronic mail as described at Chapter 668, F.S. All references to "certified mail" include electronic mail with a receipt notification. All electronic communications relating to a permitting activity will be considered part of the permitting file and will be retained as part of the file. All electronic communications relating to a compliance or enforcement activity will be considered part of the compliance or enforcement file and will be retained as part of the file. Nothing in this SOA will preclude use of electronic files or electronic communications provided that such files and communications are easily identifiable and publicly accessible and provided that such files meet all formatting requirements detailed elsewhere in this SOA or by contract.
- 8) Mobile Source Emissions Inventory. In cooperation with the Broward Metropolitan Planning Organization ("MPO") and the Florida Department of Transportation, Local Agency will update emissions estimates for mobile sources in Broward County as required by the SIP or EPA 105 Air Planning Agreement.
- 9) General Information Requests. As time and resources allow, Local Agency will respond to and attend meetings with individual citizens, the news media, schools, civic groups, and other organizations to provide information about air pollution or about specific program activities.
- 10) Training and Meetings. Local Agency will ensure that its employees have the requisite training to properly accomplish their work assignments. As time and resources allow, Local Agency staff will also attend training sessions offered by DEP regarding significant program changes, as well as EPA Air Pollution Training Institute training courses and Metro 4/SESARM training courses.
- 11) Legal. Local Agency will have access to adequate legal staff to comply with the permitting and enforcement requirements of this SOA.
- 12) Use of Tag Fees. Use of tag fees by Local Agency is provided by Section 320.03(6), F.S., and the terms of this SOA. To provide consistency with implementing program requirements, Local Agency agrees to work closely with DARM to address questions, as they arise, regarding the use of tag fees for program activities. Local Agency will summarize its activities that have

been funded by tag fees in a report to DARM sixty (60) business days after the end of each county fiscal year, which will be submitted with the tag fee certification.

- 13) Local Fee Prohibited for Title V Sources. In accordance with Section 403.0873, F.S., Local Agency will collect no fees from Title V sources, except asbestos fees collected pursuant to Section 376.60, F.S.
- 14) Collection of Title V Emission Fees. Any payments for Title V annual emission fees and forms submitted to Local Agency will be promptly returned to the applicant with a notice to submit the payment directly to DARM. A copy of the notice will be provided to DARM.
- 15) Distribution of Title V Fees. DEP may enter into a Title V contract with Local Agency to receive compensation for the Title V Program work that is referenced in this SOA. Funding for the annual Title V Contract is contingent upon the availability of legislative budget authority each state fiscal year. When contracting with DEP, Local Agency will abide by DEP's timeline regarding contract initiation and execution.
- 16) Emergency Situations. In emergency situations, Local Agency will defer to DEP's decisions regarding enforcement discretion and interpretations of DEP air program rules and permit conditions, will abide by any air-related portions of a DEP Emergency Order issued by DEP, and will not take action contrary to DEP's decisions. This does not preclude Local Agency from taking independent action on its own unique local rules (i.e., rules that are not duplicative of DEP requirements).

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PART IV
AMBIENT AIR MONITORING RESPONSIBILITIES

- 1) General Requirements. This SOA establishes how ambient air monitoring will be conducted by Local Agency within Broward County. The operation and maintenance of federally required monitoring sites and equipment and other air monitoring sites and equipment deemed necessary by DEP will be Local Agency's first monitoring priority. Minimum monitoring requirements are described in 40 CFR 58 Appendix D.
 - a) Risk Management Contingency. County is deemed to be essential in meeting EPA minimum monitoring criteria as described in 40 CFR 58, Appendix D. Where equipment was purchased with State or federal funds, and where both the State and Local Agency have a responsibility to see that the site is maintained and operated, Local Agency shall allow DEP to operate said equipment in the event that Local Agency either chooses not to operate the monitor or is unable to do so. This includes allowing the DEP access to the necessary shelters, support equipment, and data transfer equipment until such time as a mutually agreeable resolution is reached. If necessary, Local Agency will assist the State with any access issues including amending access agreements. Continuing operation and maintenance costs, such as utilities, are the operator's responsibility.
 - b) Access Rights for New Sites. Local Agency will include DEP in access agreements for future sites where federally-required air monitoring is to be established.

- 2) Roles and Responsibilities. Local Agency will be responsible for calibrating, operating, maintaining, and repairing all ambient air monitoring, calibration, and data acquisition equipment utilized in the State and Local Air Monitoring Station ("SLAMS") and Special Purpose Monitoring ("SPM") networks, including the N-Core site (if applicable), within Broward County that would otherwise be operated and maintained by DEP. Local Agency will also be responsible for operating and maintaining a laboratory, or contracting for laboratory services to perform any needed analyses or air samples, and performing any episodic air quality monitoring. SPM desired by Local Agency will be the responsibility of Local Agency. SPM desired by DEP may be negotiated between the two agencies and performed by Local Agency where the availability of equipment, staffing, and funding allows.
 - a) Coordination. Excluding routine day-to-day operational functions, Local Agency will coordinate its ambient air monitoring activities with DEP. Program decisions requiring EPA approval, such as the addition, deletion, or relocation of a monitor or the exclusion of SLAMS data, will be submitted to EPA through, and with the approval of, DARM.
 - i) Air Monitoring Procedures. All SLAMS ambient air monitoring activities and SPM activities (from which data are to be used for official purpose) conducted by Local Agency will be performed in accordance with applicable federal regulations and the appropriate Statewide Quality Assurance Project Plans ("QAPP"), using EPA and DEP-approved standard operating procedures ("SOP"). DEP will provide technical assistance to Local Agency to the extent that DEP's resources allow.

- ii) Data Automation. Local Agency will obtain and maintain data automation equipment that can communicate with, and be linked to, the DEP Florida Air Monitoring Assessment System ("FAMAS") database (or subsequent data system). Local Agency will enter and verify all valid data into the database in accordance with technical guidelines and schedule guidelines provided by DEP.
 - iii) Remote Data Access. On or before June 30, 2016, Local Agency will upgrade to wireless communication with FAMAS or submit hourly AQCSV files to DEP.
 - iv) Forms. Local Agency will use EPA's Air Quality System ("AQS") data forms or formats, as well as other DEP or EPA-required or approved forms or formats for ambient air monitoring activities as necessary.
- 3) Ambient Air Monitoring Quality Assurance Program. Local Agency will coordinate all air monitoring quality assurance activities with DEP.
- a) Quality Assurance Procedures. DARM is the Primary Quality Assurance Organization for air monitoring in the state, as determined by EPA. Local Agency will conduct all ambient monitoring activities in accordance with the Statewide QAPPs, incorporated herein by reference to ensure the collection of legally defensible ambient air quality data. This includes use of DEP's SOPs, which include approved Local Agency SOPs that have been incorporated into DEP's SOPs, and all applicable state and federal regulations and policies to ensure the acceptability of analytical results.
 - i) All of Local Agency's monitoring SOPs must be approved by DEP and EPA. DEP will provide "Quality Assurance Standards Laboratory" services on request, as resources allow. DEP will provide other technical assistance to Local Agency, as resources allow.
 - ii) Ozone Transfer Standards. Ozone certification must provide traceability to National Institute of Standards and Technology ("NIST") standards. To that end, before use in the ambient monitoring network, Local Agency must ensure that its new ozone primary standards have undergone a three-day certification to the state standard, which has been compared to the EPA standard reference photometer (Level 1).
 - iii) Systems and Instrument Performance Audits. DEP will conduct a triennial (or more frequent) ambient air monitoring management systems audit of Local Agency and utilize the process and schedule as outlined in the "Quality Assurance Systems Audit Protocol." As resources allow, DEP will conduct performance audits on continuous SLAMS (and SPM used for official purposes) instruments and manual PM_{2.5}, lead (Pb), and PM₁₀ samplers to meet minimum federal regulations. Written notice will be given if DEP is unable to continue conducting the performance audits. County will be responsible for conducting performance audits to complete quarterly requirements on all high volume manual samplers.
 - iv) Electronic Record Archiving. Local Agency will create an archive in electronic form of sufficient documentation and records to provide legal defensibility for all of the

ambient monitoring data submitted to the EPA database which address criteria pollutants, and which could be used to determine the attainment status of the county. This archive will be maintained on a calendar year basis, with the annual records being closed and finalized no later than ninety (90) business days after the end of the calendar year, and will be maintained for a minimum of five (5) years.

- b) Ambient Monitoring Reporting Requirements. Local Agency will enter all valid ambient air data collected each month into DEP's FAMAS database according to the schedule provided in the statewide SOP for ambient air monitoring data handling and performing data validation (DEP 18-27). Local Agency will also adhere to the schedules provided in DEP 18-27 for submitting missing data/information and for verifying data.
- i) Submitted data must meet or exceed the EPA's data completeness requirement (minimum requirements are prescribed in 40 CFR Part 58, Appendix A, various appendices of 40 CFR Part 50, and the EPA *Quality Assurance Handbook for Air Pollution Measurement Systems*) and must have been collected in accordance with 40 CFR Parts 50 and 58; the *Quality Assurance Project Plans for the State of Florida Ambient Air Quality Monitoring Program*; and EPA- and DEP-approved SOPs.
 - ii) Local Agency will transmit valid ambient monitoring data to DEP's FAMAS database (or subsequent data system) in accordance with DEP 18-27, unless data transmission problems make this impossible.
 - iii) Missing data forms/information will be submitted to DARM in accordance with DEP 18-27.
 - iv) All data will be verified in DEP's FAMAS database (or subsequent data system) to ensure that the data were transmitted without errors. A verification notice will be transmitted to DEP in accordance with DEP 18-27.
- c) Quality Assurance Reporting Requirements. Local Agency will use DEP-approved forms and/or formats and will comply with DARM's reporting guidance when submitting data and performing ambient air monitoring and quality assurance activities. All precision, bias, and accuracy data will be submitted to DARM within thirty (30) calendar days after the end of the quarterly reporting period.
- d) Air Quality Reporting Requirements. Local Agency will report to the general public notice of the Air Quality Index in accordance with federal regulations. Local Agency will correct the concentration values reported, to be used in Florida's Air Quality System ("FLAQS") and the Spatial Air Quality System ("SAQS"), as soon as practicable, after discovery of any errors.
- e) Annual Network and 5-year Network Assessment Plans. Local Agency must respond timely to DARM's requests for assistance in the preparation of the statewide Annual Air Monitoring Network Plan and, if applicable, the 5-year Air Monitoring Network Assessment Plan. The Annual Network Plan must be submitted to EPA by July 1st of each

calendar year. Prior to submission to EPA, the proposed Annual Network Plan must be made available for a 30-day public comment period. The next 5-year Network Assessment Plan must be submitted to EPA by July 1, 2020.

- f) Air Monitoring Technology Status Reporting. An Annual Air Monitoring Technology Status Report describing Local Agency's air monitoring system must be provided to DARM by March 1 to coincide with development of the statewide Annual Network Plan. The report must include, but not be limited to, the following information:
- i) Status of each of Local Agency's network monitors;
 - ii) A summary of the areas where Local Agency is satisfied or not satisfied with its air monitoring technology;
 - iii) An explanation as to why the current technology is still appropriate or if new technology will need to be explored;
 - iv) A summary of Local Agency's data system capabilities and deficiencies; and
 - v) A plan that corrects deficiencies that threaten data quality and/or data capture rates.

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PART V
PERMITTING RESPONSIBILITIES

1) General Requirements.

- a) Local Air Permitting. DEP authorizes Local Agency to process federally-delegated air permits on its behalf, and delegates the authority to process or issue state air permits in accordance with the procedures and conditions of this Part. The federally-delegated permit programs mentioned above have been delegated to DEP and are not considered as delegations to Local Agency under Section 403.182(2), F.S. DEP retains the authority to take final action on all permit applications.
- b) Roles and Responsibilities. Local Agency assumes the responsibility to receive, process, and take final agency action on air permit applications within Broward County that otherwise would be administered by DEP's district office, except for applications for the following permits or categories of air sources:
 - i) Electrical power plants and waste-to-energy facilities;
 - ii) Permits for which local air pollution programs are precluded from taking final agency action under Section 403.0872, F.S. (e.g., pulp and paper mills, sugar mills, and chemical manufacturing plants);
 - iii) Facilities owned or operated by Broward County;
 - iv) New source preconstruction review conducted for the Prevention of Significant Deterioration ("PSD") of air quality and Non-Attainment Area air construction permits;
 - v) Air general permit registrations;
 - vi) Construction permits subject to processing under state "expedited permitting" statutes;
 - vii) Landfills; and
 - viii) Innovative technology projects as determined by DARM.
- c) Variations and Waivers. Local Agency will not issue variances and waivers from state and federal regulations.
- d) PSD Determinations. Local Agency will consult with DARM when establishing operational and emission limits to avoid PSD, or when making determinations that facility changes are not subject to PSD. In addition, Local Agency will consult with DARM on all single-source versus multi-source determinations with regard to PSD applicability.
- e) Electronic Permit Submittal and Processing System ("EPSAP"). Local Agency will promote and use EPSAP (or subsequent data systems) for the submittal and processing of permitting applications electronically.
- f) Public Comments and Meetings. Local Agency will accept and respond to public comments and requests for public meetings as required by DEP rules and statutes. Local Agency will hold public meetings for which it is the permitting authority. Local Agency

will assist DEP in scheduling and coordinating public meetings within its geographic boundaries for which DEP is the permitting authority.

- g) Misdirected Applications. Except as noted in this Part, when Local Agency receives an application for a state air permit for which DEP is to take final agency action, Local Agency will return the application to the applicant with instructions to submit the application and fees to DEP. Accordingly, when DEP receives an application for a state air permit for which Local Agency is to take final agency action, DEP will return the application to the applicant with instructions to submit the application and fees to Local Agency.
 - h) Permit Fees. Local Agency will retain one hundred percent (100%) of the state fees for non-Title V permits.
- 2) Specific Conditions of Local Air Permitting. Local Agency will comply with the following specific requirements as a condition of maintaining this air permitting authority:
- a) Permitting Provisions. Local Agency will comply with applicable permitting provisions of the Florida Air and Water Pollution Control Act, Chapter 403, F.S.; the Florida Administrative Procedures Act ("APA"), Chapter 120, F.S.; and DEP permitting and air pollution control rules regarding permit processing, permit content, and timeframes for various permit applications. Local Agency will follow DARM permitting guidance procedures, including procedures for electronic submittals when available, and will copy the appropriate district office on all permit-related actions or provide electronic notification.
 - b) Exemptions. Local Agency is authorized to make determinations for exemptions from air permitting requirements pursuant to DEP rules. A copy of all pertinent correspondence related to any such exemptions will be timely submitted to DEP's district office and DARM.
 - c) Forms. Local Agency will use permitting forms adopted by DEP. Local Agency may affix its name and logo on the forms.
 - d) DEP Air Resource Management System ("ARMS") Database.
 - i) Local Agency will have full access to the ARMS database (or subsequent data systems) and will designate an employee to serve as the primary contact for permitting data. This contact will be the primary person who DEP will contact on permit-related data entered into ARMS by Local Agency.
 - ii) Local Agency will enter all permit-related data within thirty (30) calendar days of final permit issuance and in accordance with DARM guidance.
 - iii) Local Agency will respond promptly to requests from DEP for information, correction, and clarification of any data entered into the ARMS database.
 - iv) Local Agency will notify DEP of any systems-related problems or training needs.

- e) Legal Resources. Local Agency will have the legal resources to defend Local Agency permitting decisions in Administrative Hearings under Chapter 120, F.S., or any other legal proceedings. Laws, ordinances, rules, and regulations will be interpreted according to Part II of this SOA.
- f) Administrative Hearings and Final Agency Actions for Permits. All air permitting decisions made by Local Agency on behalf of DEP will be subject to the provisions of the Florida Administrative Procedures Act ("APA"), Chapter 120, F.S., as if these decisions had been made by DEP.
 - i) Petitions. All petitions for formal administrative hearings on air permitting applications processed by Local Agency will be processed pursuant to Sections 120.569 and 120.57, F.S., and the applicable rules of the Florida Administration Commission and DEP. Local Agency will use the Florida Division of Administrative Hearings ("DOAH") as fact-finder for all air permitting formal administrative hearings, unless otherwise explicitly directed by DEP. At the time of referral of a petition to DOAH, a copy of the notice of referral, the petition, and the challenged permitting decision will be mailed to DEP's Office of General Counsel ("OGC"). To the extent that DEP's technical or rule interpretation or guidance is at issue, DEP will provide technical assistance to Local Agency. DEP retains the right to be a party to any hearing or to intervene in any DOAH proceeding concerning matters addressed under this SOA.
 - ii) Hearings. For all hearings challenging agency action on air permits, Local Agency will be responsible for preparation for the hearings, appearance at the hearings, and preparation and submittal of the proposed recommended orders to the assigned administrative law judge. No agreement for mediation pursuant to Section 120.573, F.S., or for summary hearing pursuant to Section 120.574, F.S., will be made by Local Agency unless DEP has been joined as a party to the dispute and has also agreed to the mediation or summary hearing. Prior to all final hearings, Local Agency's attorneys will consult with DEP's OGC regarding significant issues. All recommended orders resulting from DOAH hearings will be referred to DEP's OGC for preparation of final agency action. Exceptions and responses to exceptions will be filed with DEP's OGC within the times set forth in Rule 28-106, F.A.C.
 - iii) Final Orders. DEP retains sole authority to issue final orders resulting from DOAH hearings. Appeals of final orders entered following a DOAH hearing will be the responsibility of DEP. Local Agency may join the appeal as a party, upon coordination with DEP's OGC.

3) Permit Documents.

- a) As part of the draft permit package, Local Agency will write a technical evaluation (or statement of basis, as applicable), including at a minimum: a brief project description; a rule applicability determination; a summary of emissions changes, if any; and other information necessary to support a preliminary determination to issue the draft permit. As part of the final permit package, Local Agency will provide a written final determination that identifies comments received during the public comment period, the permitting authorities response to these comments, and any changes made to the final permit pursuant thereto.
 - b) For all operating permits, Local Agency will include applicable permit conditions from previously issued construction permits. Construction permit conditions must be modified or deemed obsolete pursuant to Rule 62-210.300(1), F.A.C. Local Agency has the authority to change a construction permit except where the construction permit is required by law to be issued by DEP. If any change is warranted to a PSD permit, such change will be made in consultation with DARM.
 - c) Local Agency will actively support and use DEP's permitting tools including electronic applications, permit templates, and e-permitting.
- 4) Air General Permit Registrations. All air general permit registration forms will be received and reviewed by DEP. When Local Agency receives a registration form, it will forward the form within three (3) business days to DEP. If fees are enclosed, Local Agency will forward the form along with the fees to DEP Receipts, P.O. Box 3070, Tallahassee, Florida 32399-3070. Within three (3) business days of receipt, DEP will enter the registration information in the state database and Local Agency will receive an acknowledgement of receipt.
- 5) Copies to Local Agency. DEP will provide Local Agency with a copy of any application, request for additional information and response thereto, and notice of DEP-proposed agency actions for an air source within Broward County for which DEP has permitting authority.

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PART VI
COMPLIANCE AND ENFORCEMENT RESPONSIBILITIES

- 1) General Requirements. This part of the SOA establishes how air program compliance and enforcement will be conducted by DEP or Local Agency within Broward County.
 - a) Broward County Authority. Local Agency will use its remedies and procedures in its authorizing act(s) and ordinances. Local Agency may utilize remedies available to DEP as an alternative to its own procedures.
 - b) Roles and Responsibilities. Subject to Part II (Administration of the SOA), and except as provided below, Local Agency will conduct compliance and enforcement activities within Broward County. Local Agency will provide the necessary support for DEP's compliance and/or enforcement actions as requested. DEP's district office will conduct compliance and enforcement activities for permitted facilities owned or operated by Local Agency.
 - c) DEP Action in Broward County. Nothing herein prohibits DEP from initiating compliance and/or enforcement activity for any facility within Local Agency's county. In the event that DEP initiates an enforcement activity in Local Agency's county, DEP will provide Local Agency with notice unless circumstances make notice inappropriate. Local Agency's rules will be enforced by DEP if it elects to exercise its jurisdiction over air pollution sources within the jurisdiction of Local Agency. If enforcement actions are initiated by DEP and Local Agency against the same source for the same violations, then the actions should be combined as a joint consolidated enforcement action where possible. Any penalty fees or damages collected as a result of joint action will be divided equitably between the two agencies.
 - d) Federal Facilities. If federal facilities are not responsive to enforcement action initiated pursuant to local rules reflecting federal NSPS or NESHAP requirements and further action is necessary to achieve compliance, Local Agency shall consult with DARM (not EPA) to determine the appropriate enforcement approach.
- 2) Citizen Complaints. Local Agency will respond to and investigate complaints from citizens and any such complaints forwarded by DEP, in a timely manner. If there is a non-compliance issue, Local Agency will attempt to bring about compliance in accordance with this SOA when appropriate and inform the complainant (if not anonymous) of the action taken.
- 3) Sampling of Fuels and Materials. In accordance with the most recent DARM guidance, Local Agency will collect or assist DEP in collecting and analyzing fuel and material samples for air sources within Broward County, as needed, to determine compliance with DEP's air pollution control rules or permit conditions.
- 4) Open Burning. A Local Agency open burning program shall be operated in accordance with Section 590.125 F.S., and Chapter 62-256, F.A.C. Local Agency will adopt and enforce open burning requirements at least as stringent as DEP's open burning rules and may enter into

agreements with local fire control authorities or the Florida Forest Service to assist in the enforcement of these requirements. A copy of any open burning operating agreement between the Florida Forest Service and Local Agency shall be provided to DEP upon request.

- 5) Stack Tests. In accordance with the most recent DARM guidance, Local Agency will witness pollutant stack tests performed in Broward County, including relative accuracy test audits ("RATA"). Witnessing stack tests will, at a minimum, include witnessing the equivalent of one complete stack test run, and may include witnessing any required laboratory procedures preserving a suitable chain of evidence. For all stack tests, Local Agency is responsible for monitoring compliance with stack test methods that are required by state rules or federal regulations. In addition, Local Agency shall review one hundred percent (100%) of stack test reports and timely enter related data into AirCom. (For purposes of this paragraph, "stack tests" are not considered to include determinations of visible emissions.)

Local Agency shall follow the most recent stack test audit sample guidance from DEP and the EPA.

- 6) Continuous Emissions Monitoring Systems ("CEMS"). In accordance with the most recent DARM guidance, Local Agency is responsible for monitoring compliance with appropriate quality assurance procedures for CEMS that are required by state rules, federal regulations, and permits.
- 7) Review of Reports. Local Agency will receive and review all of the following reports for completeness, accuracy, and compliance with applicable state rules or federal regulations: Excess Emissions Reports; Stack Test Reports; Visible Emissions Test Reports; RATA Reports; and Relative Accuracy Audit ("RAA") Reports. For each report that is deficient or requires additional information, Local Agency will timely send an appropriate written correspondence (letter or e-mail) to the source owner or operator requesting additional information necessary to make the report complete, and take additional action, as appropriate.
- 8) Alternatives to Testing and Monitoring. All requests for alternative testing and monitoring requirements, and determinations of MACT minor source status, will be handled in accordance with the most recent DARM guidance.
- 9) Compliance Planning and Activities.
 - a) Compliance Monitoring Strategy Plan. Compliance monitoring will be done according to applicable federal and state statutes, rules, and guidelines. In accordance with EPA's latest Stationary Source Compliance Monitoring Strategy ("CMS") and DARM guidance, Local Agency will complete and submit to DARM a CMS plan to achieve the inspection frequencies identified by EPA and DEP. Local Agency will abide by its CMS plan and will notify DEP in advance if it is unable to meet the requirements contained therein to afford DEP the opportunity to meet the federal commitments.
 - b) Inspection Frequency.

- (1) In accordance with EPA's Stationary Source CMS and DARM guidance, Local Agency will conduct full compliance evaluations once every two (2) years for all Title V major sources.
 - (2) In accordance with EPA's Stationary Source CMS and DARM guidance, Local Agency will conduct full compliance evaluations at least once every five (5) years for all synthetic minor sources within its authority.
 - (3) Local Agency will conduct an on-site inspection or compliance outreach visit for all other permitted air facilities, including those with air general permits, at least once every five (5) years.
 - (4) Follow-Up Inspections. Local Agency will conduct follow-up inspections as necessary to determine if a facility has returned to compliance.
 - (5) Identification of Unpermitted Facilities. Local Agency will identify facilities that are operating without a permit and take appropriate action.
 - (6) Local Agency will enter inspection results into the AirCom database. DEP encourages Local Agency to utilize portable field computers along with DEP electronic tools to document inspection results.
- c) Annual Statement of Compliance. By April 1 of each calendar year, Local Agency will identify facilities which did not submit the annual statement of compliance by March 1 of that calendar year. In addition, Local Agency will complete the reviews of the annual statements and make a compliance determination by August 31 of each calendar year and take appropriate action, as needed.
 - d) Semi-Annual Monitoring Reports. Local Agency will review each semi-annual monitoring report within thirty (30) days of the date the report was received.
 - e) Outreach, Compliance Assistance, and Pollution Prevention. Local Agency will conduct outreach activities and compliance assistance as appropriate. Local Agency will promote pollution prevention as time and resources allow.
- 10) Enforcement Activities. Local Agency will follow EPA Guidance for timely and appropriate enforcement response to high priority violations, consult the DEP enforcement manual and its appendices including DARM's Air Penalty Guidelines, and follow any other DARM guidance documents or reference materials in determining appropriate enforcement responses and penalty calculations. Local Agency will maintain all penalty calculations for each enforcement action in the appropriate enforcement file (including documentation that economic benefit was considered), and will provide information regarding those calculations to DEP upon request. Local Agency shall add all enforcement records and supporting documents to DEP's electronic file storage system in accordance with this SOA.
 - 11) Small Business Environmental Assistance Program. Local Agency will assist the Small Business Environmental Assistance Program ("SBEAP") and provide ongoing support of activities associated with the mission and directives of that program as time and resources allow.

- 12) Asbestos Compliance. Inspections by Local Agency will be conducted at a minimum frequency as specified by the EPA Section 105 Air Planning Agreement. Upon determining that a violation has occurred, Local Agency will initiate appropriate enforcement action that is consistent with state and federal requirements. Local Agency will receive asbestos notifications for facilities located in Broward County and will input the notification and compliance data into the DEP asbestos database. Local Agency will encourage the use of DEP's web-based electronic notification system. Notwithstanding exclusions noted in this Part, Local Agency may inspect any asbestos activity within Broward County, and take enforcement action pursuant to its local authority. DEP district offices and Local Agency will coordinate on asbestos inspections for facilities owned or operated by Broward County to the extent possible.
- 13) Misdirected Asbestos Notifications. Asbestos notifications received by Local Agency, including those received from Broward County for facilities owned and operated by Broward County, which should have been sent instead to DEP shall be redirected to DEP no later than two (2) business days after receipt by Local Agency, in a format acceptable to DEP. Asbestos notifications received by DEP which should have been sent instead to Local Agency shall be redirected to Local Agency no later than two (2) business days of receipt.
- 14) DEP AirCom Database – Compliance and Enforcement Data.
 - a) Local Agency will have full access to the DEP AirCom database and will designate an employee to serve as the primary contact for AirCom compliance and enforcement data. This contact will be the primary person who DEP will contact on compliance and enforcement data entered into the database by Local Agency.
 - b) Local Agency will enter all compliance and enforcement data in a timely manner in accordance with the most recent DARM guidance (e.g., level of service document) with primary emphasis on achieving the commitments made to EPA as part of the State Review Framework ("SRF").
 - c) Local Agency will update AirCom for compliance data, enforcement data, minimum data requirements, excess emissions reports, CEMS data, and stack test and visible emission test results. All applicable inspection and source compliance and enforcement activity data including, but not limited to, NSPS, NESHAP, Title V, and non-Title V minor source facilities will be entered into AirCom as soon as possible, but not later than thirty (30) calendar days from the date the activity was performed by Local Agency.
 - d) Local Agency will review one hundred percent (100%) of stack test reports and enter the results in the AirCom database within seventy five (75) calendar days of the test date. If the test report is received late by Local Agency, Local Agency shall review the report as soon as possible, but no later than 30 days upon receipt.
 - e) Local Agency will review and enter related data for each semi-annual monitoring report into AirCom within thirty (30) calendar days of receipt of the report.
 - f) Local Agency will follow the most recent DARM guidance for reviewing and entering electronic and hardcopy data from the Annual Operating Reports ("AOR"). Local Agency will complete its quality assurance review of the data in AirCom (i.e., the "edit check" process) by September 30th of each year. If DEP finds items of incompleteness or errors in the submitted reports during either the edit check process or the report review, Local

Agency will take the lead on any necessary follow up with the facility. DEP will perform all uploads of Electronic Annual Operating Report ("EAOR") data into AirCom.

- g) Local Agency will respond promptly to requests from DEP for information, correction, and clarification of any compliance and enforcement data entered into these databases by Local Agency.
- h) Local Agency will notify DEP of any systems-related problems or training needs.


15) DEP Asbestos Database.

- a) Local Agency will have full access to the DEP asbestos database and will designate an employee to serve as the primary contact for AirCom and asbestos compliance and enforcement data. This contact will be the primary person with whom DEP will consult on asbestos-related data entered into the database by Local Agency.
- b) Local Agency will enter all asbestos-related data in a timely manner in accordance with the most recent DARM guidance (e.g., level of service document).
- c) Local Agency will update DEP Asbestos Database for compliance data, enforcement data, and minimum data requirements. All applicable inspection and compliance and enforcement activity data for asbestos renovation/demolition data will be entered into the DEP asbestos database as soon as possible, but not later than thirty (30) calendar days from the date the activity was performed by Local Agency.
- d) Local Agency will respond promptly to requests from DEP for information, correction, and clarification of any asbestos data entered into the database by Local Agency.
- e) Local Agency will notify DEP of any systems-related problems or training needs.

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SIGNATURES

State of Florida
Department of Environmental Protection

By 

Date: 2-22-15

Justin B. Green
Director, Division of Air Resource Management


Broward County, by and through its Board of County Commissioners

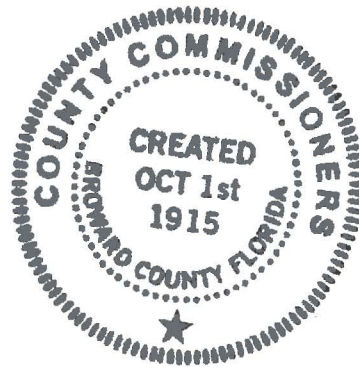
By 
Marty Kjar

Date: 1/26/16 #11

Mayor

Reviewed and approved as to form:
Joni Armstrong Coffey, County Attorney

By  12-11-15
Benjamin D. Crego, Assistant County Attorney



Reviewed and approved as to form:
Joni Armstrong Coffey, County Attorney

By  12/11/15
Maite Azcoitia, Deputy County Attorney